IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL APPLICATION NO. 2808 OF 2007

Shri Bajarang Dattatraya Puri. ... Applicant.

V/s.

1. Babruvan Latabuwa Giri & ors. ... Respondents.

WITH

CRIMINAL APPLICATION NO. 2443 OF 2007

The State of Maharashtra. ... Applicant.

V/s.

Babruwahan Lalbuwa Giri & ors. ... Respondents.

S.U.Dhakephalkar i/b. Ajay S. Patil for
the applicant (in Crim.Appln.No.2808/07)

Ms.S.D.Shinde, A.P.P. for the State.

P.L.Sapkale for respondent Nos.1 to 4.

CORAM: V.C.DAGA, J.

DATED: 24th October 2007.

P.C.:

. Heard learned counsel for the applicant, learned counsel for respondent Nos.1 to 4 and learned A.P.P. for the State.

2. The applicant as well as the State are seeking

cancellation of bail granted in favour of respondent Nos.1 to 4 by the learned I/c. I Ad hoc Additional Sessions Judge, Kalyan in C.R.No.07/2007 on their executing P.R.Bond of Rs.15,000/-.

3. Mr.Dhakephalkar, learned counsel for the applicant seeks cancellation of bail on three grounds. First ground is that by order dated 10th May, 2007, application for bail moved by respondent Nos.1 to 4 being Bail Application No.352/2007 was rejected by the learned Additional Sessions Judge, Kalyan. He submits that in another bail application moved by respondent Nos.1 to 4 before another judge being Bail Application No.413/2007, I/c. I Ad-hoc Additional Sessions Judge, Kalyan was not maintainable for want of change in circumstances. He, thus, submits that the said respondents were wrongly enlarged on bail.

4. Mr.Dhakephalkar reiterates that it was not open to respondent Nos.1 to 4 to obtain bail from another Sessions Judge, and at the same time learned Sessions Judge could not have granted bail without looking and referring to the earlier order of rejection.

5. In support of his submissions, Mr.Dhakephalkar relied upon the judgment of the Rajasthan High Court in the case of **State of Rajasthan v. Fakir Mohd.**,

2000 (4) Cri.L.J. 4289 (Raj). That is how, he submits that the reasons recorded by the learned Sessions Judge while granting bail are also erroneous. He, thus, submits that the bail granted in favour of respondent Nos.1 to 4 is liable to be cancelled.

6. The accused/ respondent Nos.1 to 4 were arrested on 24th April, 2007. Thereafter, they were remanded to police custody for 9 days and thereafter in judicial custody till they were released on bail vide order dated 1st June, 2007.

7. It appears that even till today no chargesheet has been filed by the prosecution. The police custody was already denied by the magisterial Court. It is, thus, clear that, prima facie; the investigation is almost complete. No useful purpose would be served by cancelling bail and detaining respondents in custody. There are no allegations with regard to pressurising the witnesses or tampering evidence with substantial material on record. In this view of the matter no case is made out for cancellation of bail. None of the grounds raised in support of the prayer has been substantiated.

7. In the above scenario, I do not see any

purpose in cancelling the bail granted in favour of respondent Nos.1 to 4 and driving them with fresh bail application which will be a futile exercise; waste of court time and waste of money. None of the grounds raised has any substance.

9. In the result, both the applications seeking cancellation of bail stand rejected.

JUDGE